IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

Crl.MC.No. 1150 of 2007()

L.P.12 OF 2005 OF J.F.C.M COURT, KUNNAMKULAM

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PETITIONER: ACCUSED

BALAKRISHNAN, AGED 43 YEARS,
S/O.PARANKUTTY, KOORKAPARAMBIL HOUSE,
P.O.ANDATHODU, VIA CHAVAKKAD, THRISSUR DISTRICT,
REP. BY THE POWER OF ATTORNEY HOLDER
RADHAKRISHNAN.K.V., S/O.KESAVAN, VENGALATH HOUSE,
P.O.PERAKAM, CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY ADV. SRI.RAJIT

RESPONDENTS:

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1. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. ANITHA, D/O.NARAYANAN, POLIYATH
HOUSE, PUNNA DESOM, MANATHALA VILLAGE.

BY ADV. SRI.M.L.SURESH KUMAR
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1150 of 2007

Dated this the 12th day of April, 2007

ORDER

The petitioner and the 2nd respondent are spouses. Against the petitioner, a prosecution is pending, inter alia, under Section 498 A I.P.C. Proceedings were initiated on the basis of a complaint filed by the 2nd respondent. Cognizance has been taken on the basis of the final report submitted by the police after due investigation. Parties have now settled their disputes. All outstanding disputes have been settled harmoniously. In these circumstances, both of them have come before this Court with a common prayer that the prosecution initiated against the petitioner may be quashed. The petitioner has not appeared before learned Magistrate. The case against him is pending in the list of Long Pending Cases.

2. The parties have filed a joint application for composition. The respondent is represented by counsel. The application for composition is duly signed by the rival contestants and counter signed by their counsel. I am satisfied from the submissions made at the Bar and the documents produced that the parties have settled their disputes amicably and the complainant/2nd respondent has compounded the offence allegedly committed by the petitioner. If legally permissible, I am satisfied, that the composition can be accepted and the proceedings brought to premature termination.

3. The offence punishable under Section 498 A I.P.C is not legally compoundable. The counsel hence rightly relies on the dictum in **B.S.Joshy v. State of Haryana** [A.I.R (2003) S.C 1386]. That decision is authority for proposition that in an exceptional case interests of justice may transcend the interests of mere law. Powers under Section 320 I.P.C cannot be held to fetter the sweep of the powers under Section 482 Cr.P.C. I am satisfied, that this is an eminently fit case where the proceedings deserve to be brought to premature termination by invoking the powers under Section 482 Cr.P.C.

4. This Crl.M.C is, in these circumstances, allowed. L.P.No.12 of 2005 (which arose from C.C.No.1102 of 2003) pending before the Judicial Magistrate of the First Class, Kunnamkulam against the petitioner is hereby quashed. Needless to say that proceedings if any pending under Section 446 Cr.P.C will have to be brought to its logical conclusion.

(R.BASANT, JUDGE)

rtr/-